

D.T.E. 03-62

Inquiry by the Department of Telecommunications and Energy, on its own motion, pursuant to G.L. c. 164, § 1F to investigate the use of the New England Generation Information System.

ORDER OPENING INQUIRY

VOTE TO OPEN INQUIRY

I. INTRODUCTION

____ Pursuant to G.L. c. 164, § 1F, the Department of Telecommunications and Energy (“Department”) votes to open an inquiry into the use of the New England Generation Information System (“NE-GIS”) for the purposes of complying with the Department’s Information Disclosure Requirements contained in 220 C.M.R. § 11.06 et seq. The purpose of these regulations is to ensure that customers are presented with consistent information by which to evaluate services offered by competitive suppliers and electric distribution companies.¹ 220 C.M.R. § 11.06(1). The Department’s regulations require that each competitive supplier provide its customers an information disclosure label containing the price, fuel source, emissions, and labor characteristics of the supplier’s generation resource portfolio. 220 C.M.R. § 11.06(2). Competitive suppliers are required to update the information presented on their disclosure labels on a quarterly basis, using market settlement data or equivalent data provided by the Independent System Operator for the most recent one-year period. 220 C.M.R. § 11.06(2)(d)(1).

Subsequent to the promulgation of these regulations, the New England Power Pool (“NEPOOL”) voted to implement NE-GIS in order to provide suppliers throughout New

¹ The regulations state “[e]ach Competitive Supplier and each Distribution Company providing Standard Offer Generation Service or Default Service shall prepare information on a label, or labels, for Retail Customers in a consistent format, as determined by the Department.” 220 C.M.R. § 11.06(2)(a). For the purpose of this NOI, reference to competitive suppliers’ information disclosure requirements shall be understood to apply equally to distribution companies providing standard offer and default service

England with an efficient means of demonstrating compliance with a variety of state policies and regulations, such as information disclosure requirements and renewable portfolio standards.² In this inquiry, the Department is requesting comments on whether we should direct licensed competitive suppliers in Massachusetts to use NE-GIS as the sole basis for the fuel source, emissions, and labor information included on disclosure labels.

II. DESCRIPTION OF NE-GIS

NE-GIS is a certificate-based system that allows retail suppliers in New England to purchase a generator's electricity environmental attributes separately from the generator's electricity commodity. NE-GIS creates a certificate for every megawatt ("MW") produced by each generating unit located in New England, using market settlement data provided by ISO-NE. New England Power Pool Generation Information System Operating Rules, at Rule 2.1(a). The certificates issued to a generator, which NE-GIS places in an account established for that generator, lists all of the generator's non-price attributes required for reporting by the various New England states.³ Id. at Rule 2.6. For each quarter of the calendar year, NE-GIS provides for a two-month trading period during which suppliers serving retail load in New

² In an October 10, 2001 letter to NEPOOL, the Department joined public utility commissions from the other New England states in stating our support for NE-GIS. See October 10, 2001 Letter from New England Conference of Public Utility Commissioners, Inc.

³ For example, NE-GIS certificates include all of the fuel source, emissions, and labor information required by 220 C.M.R. § 11.06.

England can purchase certificates issued to generators during the quarter.⁴ Id. at Rule 3.2(a). Certificates purchased are transferred from the NE-GIS accounts of the generators to accounts established for each supplier. Id. at Rule 3.1. The transfer of certificates issued during a quarter can take place only during the quarter's specified trading period. Id. at Rule 3.3(a).

For each quarter, NE-GIS establishes a "certificates obligation" for each supplier that is equal to the supplier's New England-wide retail sales for the quarter, using market settlement data provided by ISO-NE. Id. at Rule 4.3(a). NE-GIS requires that each supplier disaggregate its regional certificates obligation into state-specific obligations, and establish a separate NE-GIS sub-account for each state. Id. at Rule 4.1(a). When a supplier purchases a NE-GIS certificate, the supplier must identify in which of its sub-accounts the certificate should be placed. Id. at Rule 4.3(c). At the end of each quarter's trading period, NE-GIS determines whether the number of certificates in each of a supplier's sub-accounts is equal to the load obligation identified by the supplier for that sub-account. If the number of certificates in a sub-account is less than the certificate obligation, NE-GIS assigns "residual" certificates⁵ to the sub-account. Id. at Rule 4.4. Soon after the close of the trading period, NE-GIS creates a

⁴ The trading period for a particular quarter begins on the 15th day of the fourth month following the end of the quarter. For example, the trading period for the first quarter of 2002, January through March (the quarter in which NE-GIS became operational), began on July 15th, 2002 and ended on September 15th, 2002. The time lag between the end of a quarter and the beginning of the quarter's trading period is necessary to ensure the accuracy of the market settlement and emissions data.

⁵ The attributes listed on "residual" certificates for a particular quarter are calculated as the average of the attributes of those certificates that have not been purchased during the quarter.

report for each supplier that summarizes the attribute information included on the certificates in the supplier's sub-accounts for that quarter. Id. at Rule 5.2(a).

III. DISCUSSION

The Department identifies three benefits associated with requiring the use of NE-GIS data as the basis for compliance with our information disclosure requirements. First, as stated above, NE-GIS data provides suppliers with an efficient means of demonstrating compliance with various state regulatory requirements. Second, it furthers the objective of the Department's information disclosure requirements of ensuring that customers are presented with consistent information by which to evaluate services offered by competitive suppliers and distribution companies. Finally, it should simplify the Department's review of suppliers' information disclosure annual reports. 220 C.M.R. § 11.06 (2)(d)(3). Accordingly, the Department proposes to require that competitive suppliers be required to use NE-GIS data as the sole basis for the fuel source, emissions, and labor information included on their disclosure labels. The Department seeks comment on this proposal.

As stated above, NE-GIS establishes a two-month trading period for each quarter, and produces a report for each supplier at the end of the trading period. The first quarter of 2003 is the earliest quarter for which the trading period has yet to begin (the trading period for this quarter begins on July 15, 2003). NE-GIS reports for this quarter will be available to suppliers on, or around, September 20, 2003. Therefore, the Department proposes that each supplier be required to update its information disclosure label during October 2003 to include information from its GIS report for the first quarter of 2003. Thereafter, each supplier would

update its label quarterly to include information from its most-recently available NE-GIS report, with such updates occurring during the month following the availability of the report. The Department seeks comment on whether this proposed schedule provides suppliers with sufficient lead time to transition to the use of NE-GIS data.

After an initial transition period, each supplier's label would include information from its four most recent NE-GIS quarterly reports, consistent with the Department's requirement that labels be based on information from the most recent twelve-month period. However, the initial labels updated pursuant to the Department's proposal in this investigation would be based on less than twelve-months of data.⁶ The Department seeks comment on whether a short-term exception from our regulations would be appropriate for purposes of a smooth and timely transition to the use of NE-GIS data.⁷ See 220 C.M.R. § 11.08.

220 C.M.R. § 11.06(2)(d)(3) requires that each supplier present an annual report to the Department that documents the non-price information included on its disclosure labels. Beginning with the annual report for calendar year 2003, the Department proposes that each supplier include in its report the quarterly disclosure labels issued by the supplier during the calendar year, and the NE-GIS reports that are the basis for information included on those

⁶ The labels updated in October 2003, January 2004, and April 2004 will be based on three, six, and nine months of NE-GIS data, respectively.

⁷ This is analogous to the provision in our regulations that state that, if a supplier has operated for less than a full year, but more than three months, the supplier's label shall rely on information from the portion of the year that the supplier has operated. 220 C.M.R. § 11.06 (2)(d)(1).

labels.⁸ Each supplier's report would include documentation that the information included on each of the labels is based: (1) solely and accurately on the applicable NE-GIS reports; and (2) on the supplier's actual retail sales in Massachusetts during the applicable twelve-month period.⁹ Finally, suppliers that offer more than one product to their Massachusetts customers would be required to include in their annual reports statements of verification by an independent auditor regarding the resource portfolio and retail sales associated with each product. 220 C.M.R. § 11.06(2)(d)(2). The Department proposes that suppliers that offer multiple products to Massachusetts customers establish a separate NE-GIS sub-account of each of its products, in order to simplify the Department's review of the annual reports. In light of the fact that suppliers in Massachusetts are also required to submit annual reports to the state's Division of Energy Resources ("DOER"), in order to comply with the state's Renewable Portfolio Standards, the Department seeks comments on ways in which suppliers can satisfy our and DOER's reporting requirements efficiently.

IV. WRITTEN COMMENTS

Any person who wishes to comment on the Department's proposal to require that competitive suppliers use NE-GIS as the sole basis for the fuel source, emissions, and labor information included on their disclosure labels may file written comments no later than 5:00 p.m. on July 9, 2003. Written comments shall be limited in length to a maximum of 20

⁸ For 2003, only the label updated during October 2003 will be based on NE-GIS data.

⁹ The NE-GIS reports included in each supplier's annual report should clearly specify the sub-accounts established for Massachusetts retail sales, as required by NE-GIS.

one-sided, double-spaced typewritten pages. Comments should be filed with Mary L. Cottrell, Secretary, Department of Telecommunications and Energy, One South Station, 2nd Floor, Boston, Massachusetts 02110. All written pleadings or comments must also be submitted to the Department in electronic format using one of the following methods: (1) by e-mail attachment to dte.efiling@state.ma.us, cc: Hearing Officer at michael.killion@state.ma.us; or (2) on a 3.5" floppy diskette, IBM-compatible format. The text of the e-mail or the diskette label must specify: (1) an easily identifiable case caption; (2) docket number; (3) name of the person or company submitting the filing; and (4) a brief descriptive title of document (e.g., comments). The electronic filing should also include the name, title and phone number of a person to contact in the event of questions about the filing. Text responses should be written in either Word Perfect (naming the document with a ".wpd" suffix) or in Microsoft Word (naming the document with a ".doc" suffix). Data or spreadsheet responses should be compatible with Microsoft Excel. Documents submitted in electronic format will be posted on the Department's Website (<http://www.mass.gov/dpu>).

V. TECHNICAL CONFERENCE

Prior to the filing date for written comments, the Department will conduct a technical conference to provide interested parties an opportunity to discuss the issues associated with our Information Disclosure Requirements. The technical session will be divided into two portions. The topic of discussion for the first portion will be the Department's proposal to direct competitive suppliers to use NE-GIS as the sole basis for the fuel source, emissions, and labor information included on their disclosure labels, as described above.

The topic of discussion for the second portion of the technical session will be revisions the Department could make to our Information Disclosure Requirements to increase the usefulness of the disclosure labels to retail customers, in anticipation of a rulemaking the Department may open to revise our regulations on these issues. The Department identifies the following areas where it may be appropriate to revise our regulations. The Department is interested in discussing these areas, and other areas of interest, with participants at the technical session.

First, the labels currently identify imported power as a separate power source within a supplier's resource portfolio, without identifying the fuel source of the import. 220 C.M.R. § 11.06(2)(d)(1)(e). NE-GIS allows suppliers to purchase certificates from specific generating units located outside of New England, provided the suppliers meet certain requirements. However, under the current rules, if a supplier purchases certificates from a wind resource outside the ISO-NE control area, the purchases would be listed on the supplier's label as an import, not as wind resource, even though the certificate specifies the fuel source as wind.

Second, the resource portfolio included on a retail supplier's label distinguishes between "known resources" and "system power" attributes.¹⁰ 220 C.M.R. § 11.06(2)(d)(1). Under the current rules, NE-GIS certificates purchased by a supplier would be listed as known resources, while the residual certificates assigned by NE-GIS to the supplier would be listed as system power. The Department questions whether this distinction will provide useful

¹⁰ Under NE-GIS, certificates associated with a particular generator would be classified as a known resource, while the residual certificates that NE-GIS assigns to suppliers' accounts would be classified as system power.

information to consumers in evaluating available electricity products, or whether the distinction will serve to make the label more confusing and, thus, less useful to consumers.

Third, the labels compare the air emission rates of a supplier's resource portfolio to the emission rates of both the New England regional average and a new generating unit. 220 C.M.R. § 11.06(2)(d)(5)(c). The Department questions whether these comparisons provide useful information to consumers in evaluating available electricity products, and whether there are other comparison points (e.g., a certified "green product") that would be of more use to consumers.

Finally, retail suppliers are required to provide disclosure labels to their customers quarterly. 220 C.M.R. § 11.06(4)(c). The Department seeks comment on whether this requirement can be effectively satisfied through website postings, supplemented by fewer annual mailings (and possibly quarterly mailings upon customer request).

The technical session will be held on July 2, 2003, at 10:00 a.m., at the Department's offices, One South Station, Boston, Massachusetts.

VI. ORDER

Accordingly, the Department

VOTES: To open an investigation into the use of the New England Generation Information System; and it is

ORDERED: That within seven days of the date of this Order, the Secretary of the Department shall publish the attached notice of this investigation in a statewide newspaper of daily circulation within the Commonwealth; and it is

FURTHER ORDERED: That the Secretary of the Department shall serve a copy of this Order by mail on all licensed competitive suppliers, electric distribution companies and all persons that have asked to be placed on a general notification list pursuant to 220 C.M.R.

§ 2.09

By Order of the Department,

/s/ _____
Paul B. Vasington, Chairman

/s/ _____
James Connelly, Commissioner

/s/ _____
W. Robert Keating, Commissioner

/s/ _____
Eugene J. Sullivan, Jr., Commissioner

/s/ _____
Deirdre K. Manning, Commissioner